HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARNUNA REDDY

WRIT PETITION No. 23568 OF 2006

Between:

R.A.Dayanand

... Petitioner

AND

Municipal Corporation of Hyderabad,
Through its Commissioner in Office,
Hyderabad.

& another.

... Respondents

Counsel for the petitioner : Sri Bankatlal Mandhani

Dated: 13th November, 2006

: ORDER :

Per Sri C.V.Nagarjuna Reddy, J

The petitioner, who claims to be the owner and possessor of house bearing Door No.3-6-632, Street No.9 leading towards Ashok Nagar, Hyderabad, has filed this writ petition for grant of a declaration that failure of Municipal Corporation of Hyderabad to take action in the matter of construction sought to be raised by respondent No.2 – R. Akula Achutanand is illegal. He has further prayed for issue of a direction to respondent Nos.1 and 2 not to make any construction or re-construction towards southern side of his house.

In his affidavit, the petitioner has averred that on the south side of his house, respondent No.2 has seven shops bearing door Nos.3-6-632/1 to 7 out of which he sold away south east corner shop to one person by name Kasinath under a registered sale deed. It has been further averred that shops of respondent No.2 were substantially demolished in the road widening programme undertaken by respondent No.1 leaving only a part of the structure of 5 feet width. The petitioner says that on the left-over site, respondent No.2 is not entitled to raise any structure as he had received full compensation. However, by taking advantage of the inaction of respondent No.1, he is trying to raise construction on the small strip of the land. Along with the affidavit, the petitioner has filed copy of proceedings dated 15-2-2005 in which Special

Deputy Collector/Land Acquisition Officer recorded his objection to the proceedings initiated under the Land Acquisition Act, 1894 (for short, 'the Act').

We have heard Sri Bankatlal Mandhani, learned counsel for the petitioner and carefully scrutinised the record. In our opinion, the grievance made by the petitioner is meritless and the writ petition is liable to be dismissed. The description in the cause title clearly shows that the petitioner and respondent No.2 are real brothers. In the objections filed by him to the notice issued under Section 5-A of the Act, the petitioner has described respondent No.2 as his younger brother. However, in the present proceedings the petitioner has not revealed this fact and the whole case is projected as if it involves a dispute between two neighbours. Evidently the petitioner and respondent No.2, though brothers, do not seem to be getting along well and the petitioner in order to settle his personal scores with respondent No.2 appeared to have filed this writ petition. Even otherwise, we are satisfied that the bald assertion contained in the affidavit of the petitioner that respondent No.2 is raising construction in violation of the building rules cannot be accepted.

There is another reason for not entertaining the writ petition. The objections filed by the petitioner to the notice issued under Section 5-A were disposed of as far back as 15.2.2005 by the Special Deputy Collector/Land Acquisition Officer, Municipal Corporation of Hyderabad. The petitioner himself has filed a copy of the same. Having kept quiet for more than 1½ years, the petitioner filed this writ petition at his leisure. There is no

explanation offered by the petitioner for this inordinate delay in filing this writ petition after the rejection of his objections by the Special Deputy Collector. The writ petition, thus, suffers from laches.

For the aforementioned reasons, the writ petition is dismissed.

C.V.NAGARJUNA REDDY, J

13th November, 2006

G.S.SINGHVI, CJ

Es/Mdaa